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In re Application of

Debendra Das Sharma

Application No. 10/011,857

Filed: November 5, 2001

Attorney Docket No. 10017812-1

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed July 28, 2006.

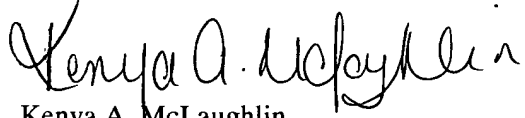
The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

A review of the application file history reveals that an appeal brief was filed on January 26, 2006, and that, thereafter, an examiner's answer was filed on March 24, 2006. Pursuant to 37 CFR 41.41(a)(1), the petitioner was allowed a non-extendable period of two months to reply to the examiner's answer. The record reflects that on May 30, 2006, (certificate of mailing dated May 24, 2006, petitioner filed a reply to the examiner's answer which the undersigned located in the Image File Wrapper for the subject application. On July 18, 2006, the examiner mailed a notice stating that the reply brief filed May 30, 2006, was received, but would not be entered because it was not filed within the non-extendable period set for reply by 37 CFR 41.41(a)(1).

It is noted that 37 CFR 41.41(a)(1) allows a non-extendable two-month period for reply to an examiner's answer. While the petitioner's reply to the examiner's answer is accorded an official filing date of May 30, 2006, it is noted that the reply contained a certificate of mailing dated May 24, 2006—within the two month period for reply. It is further noted that 37 CFR 1.8 does not indicate that a reply to an examiner's answer should not receive the benefit of the certificate of mailing procedures. There is no indication that the circumstances presented by the application place it among the excepted filings as prescribed by 37 CFR 1.8(a)(2). Accordingly, it is concluded that the reply to the examiner's answer filed on May 30, 2006, should receive the benefit of the certificate of mailing dated May 24, 2006. Any resulting holding of abandonment should be withdrawn and the reply to the examiner's answer that was previously filed should be entered and noted as timely received.

The application file is being forwarded to Technology Center 2100, GAU 2111 for further processing.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

A handwritten signature in black ink, reading "Kenya A. McLaughlin". The signature is written in a cursive, flowing style.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions